

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 04 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ELENA ANATOLE VOLOSCIUC; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-71125

Agency Nos. A79-613-432

A79-613-433

A79-613-434

A79-613-435

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted January 18, 2008
San Francisco, California

Before: NOONAN, W. FLETCHER, and BEA, Circuit Judges.

Elena Anatole Volosciuc (“Volosciuc”), her husband, and their two children (collectively, “petitioners”) petition for review of the Board of Immigration Appeals’ order affirming the Immigration Judge’s (“IJ”) decision denying the

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

petitioners' application for asylum.¹ We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition.

Substantial evidence supports the IJ's conclusion that Volosciuc was not persecuted on the basis of her ethnicity. The mistreatment Volosciuc suffered at work, even assuming it was because of her ethnicity, amounts to discrimination and harassment, not persecution. *See Nagoulko v. INS*, 333 F.3d 1012, 1016–17 (9th Cir. 2003). Volosciuc presents no evidence that the head of the Moldavian Red Cross is a government actor, and she does not challenge on appeal the IJ's finding that Volosciuc failed to demonstrate that the Moldavian government is unwilling or unable to control the Red Cross. *See Ahmed v. Keisler*, 504 F.3d 1183, 1191 (9th Cir. 2007). The evidence does not compel the conclusion that the extortion Volosciuc suffered and threats she received were on the basis of her ethnicity. *See Bolshakov v. INS*, 133 F.3d 1279, 1281 (9th Cir. 1998). Finally, Volosciuc failed to demonstrate that the government was unable or unwilling to control her son's attackers; the police conducted an investigation and placed the attackers on a special registration list for children accused of crimes.

¹ Petitioners do not challenge on appeal the IJ's denial of their applications for withholding of removal and relief under the Convention Against Torture.

The temporary stay of removal and stay of voluntary departure period
continue until issuance of mandate.

PETITION FOR REVIEW DENIED.